

Notice of Allowability	Application No.	Applicant(s)	
	09/815,311	REDONDO ET AL.	
	Examiner Jill M. Gray	Art Unit 1774	

(6)

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address—

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to Amendment and Declaration of January 31, 2005.
2. The allowed claim(s) is/are 16-30, renumbered 1-15.
3. The drawings filed on 23 March 2001 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 1/31/05
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 31, 2005 has been entered.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: Applicants' arguments and Declaration of January 31, 2005 in combination with the data presented in Table 2 of the specification have been fully considered and found to be persuasive to overcome the prior art rejections. In particular, the language of "for compatibilization of the natural magnesium hydroxide with the polymeric components" is functional language that must be evaluate and considered just like any other limitation of the claims, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. The examiner's position remains that hydrolysable organic silanes are known coupling agents and thus has reason to believe that this functional limitation, asserted to be critical for establishing novelty in the claimed self-extinguishing cable, may in fact, be an inherent characteristic of the prior art. The teachings of Betso et al clearly support the examiner's position. However, Betso also recognizes that

hydrolysable silanes can be used to crosslink compositions and provides direction to the skilled artisan to adjust the amount of coupling agent to generate the amount of coupling or grafting desired without jeopardizing the nature of the composition when crosslinking is not desired. Applicants' arguments and Declaration have been found to be persuasive with respect to the teachings of Sonoda et al in that Sonoda's use of the hydrolysable silane is to impart crosslinking to his composition. There is no clear reason, motivation or suggestion to modify or adjust the amount of silane in the composition of Sonoda so as to maintain its presence while not imparting appreciable crosslinking to his composition. Moreover, applicants' data in Table 2 of the specification shows superior flexibility properties of the present claimed composition as evidenced by the elongation at break.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill M. Gray whose telephone number is 571-272-1524. The examiner can normally be reached on M-F 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jill M. Gray
Examiner
Art Unit 1774

jmg


RENA DYE
SUPERVISORY PATENT EXAMINER *3621-05*
A.O. 1724